

PART 1849

TERMINATION OF CONTRACTS

TABLE OF CONTENTS

SUBPART [1849.1](#) GENERAL PRINCIPLES

1849.101 Authorities and responsibilities.

1849.101-70 NASA authorities and responsibilities.

1849.101-71 Termination authority.

1849.102 Notice of termination.

1849.102-70 Prior notification of significant contract terminations.

1849.102-71 Prior clearance of contract terminations resulting from a major breach of safety or security.

1849.105 Duties of termination contracting officer after issuance of notice of termination.

1849.105-70 Termination docket checklist.

1849.106 Fraud or other criminal conduct.

1849.110 Settlement negotiation memorandum.

1849.110-70 Memorandum contents.

1849.111 Review of proposed settlements.

PART 1849

TERMINATION OF CONTRACTS

Subpart 1849.1—General Principles

1849.101 Authorities and responsibilities.

1849.101-70 NASA authorities and responsibilities.

(a) Installations shall appoint a termination contracting officer (TCO) (see FAR 2.101) to perform specific duties relating to contract termination as one of that individual's primary functions. In

addition to the responsibilities described in this part and FAR part 49, such duties should include—

- (1) Reviewing [NASA Forms 1412](#), Termination Authority;
- (2) Reviewing the contract and related documents before issuing the notice of termination, to ensure protection of the Government's rights under the contract; and
- (3) Issuing notices of termination, reinstatement, and rescission to contractors.

(b) Contracting offices shall utilize the services of the Department of Defense and other Government agencies whenever possible to administer and negotiate settlement of terminated contracts. Delegation of the negotiation of termination settlement function shall be made in accordance with FAR subpart 42.2 and subpart [1842.2](#).

[PN 18-06]

1849.101-71 Termination authority.

[NASA Form 1412](#), Termination Authority, is prescribed for use by NASA installations when initiating action to terminate a contract for convenience or default. The project manager or the activity initiating the procurement request should initiate the action by completing [NASA Form 1412](#) and submitting it to the contracting officer.

1849.102 Notice of termination.

1849.102-70 Prior notification of significant contract terminations.

(a) If the contracting officer considers that a contract termination at any dollar amount is of significant interest to Headquarters or has agency public information implications, the NASA Headquarters Office of Procurement, Program Operations Division, should be contacted to discuss a possible Administrator Notification of a Significant Contract Action (ANOSCA) and/or NASA Headquarters Public Announcements (PA). See 1805.303-71.

[PN 18-06]

1849.102-71 Prior clearance of contract terminations resulting from a major breach of safety or security.

The Senior Procurement Executive, through the Programs Operations Division, must be notified prior to taking any action to terminate because of a major breach of safety or security.

1849.105 Duties of termination contracting officer after issuance of notice of termination.

1849.105-70 Termination docket checklist.

The termination contracting officer shall complete [NASA Form 1413](#), Termination Docket

## Checklist.

### 1849.106 Fraud or other criminal conduct.

If the Terminating Contracting Officer (TCO) suspects fraud or other criminal conduct when negotiating termination settlements, the TCO shall notify the Suspending and Debarring official in accordance with the procedures in 1809.406-3.

[PN 18-06]

### 1849.110 Settlement negotiation memorandum.

#### 1849.110-70 Memorandum contents.

The TCO shall include the following information in the settlement negotiation memorandum. Contractors and subcontractors are encouraged to use this format appropriately modified for subcontract settlements submitted for review and approval.

#### (a) General information.

##### (1) Identification.

(i) Name and address of the contractor and any pertinent affiliation between prime contractors and subcontractors relative to the overall settlement.

(ii) Names and titles of contractor and Government personnel who participated in the negotiation.

##### (2) Description of terminated contract.

(i) Contract number

(ii) Date of award;

(iii) Contract type;

(iv) General description of contract items;

(v) Total contract price; and

(vi) Applicable contract termination provisions and clause.

##### (3) Termination notice.

(i) Date of the termination notice;

(ii) Effective date of termination;

(iii) Scope and nature of termination (complete or partial);

(iv) Items terminated;

(v) Unit prices;

(vi) Total price of items terminated for fixed-price contracts or the estimated cost and fee applicable to items terminated for cost-reimbursement type contracts;

(vii) Whether the termination notice was amended and, if so, why;

(viii) Whether the contractor stopped work on the termination effective date (if it did not, furnish details) and whether subcontracts were terminated promptly;

(ix) Any redirection of common items and return of goods to the contractor's suppliers; and

(x) Extent of contract performance and timely deliveries by the contractor.

(b) Contractor's settlement proposal.

(1) Date and amount. Date and location where the claim was filed and its gross amount (if interim settlement proposals were filed, information shall be furnished for each claim).

(2) Basis of claim. E.g., inventory, total cost, or other basis, including an explanation of any approvals granted in connection with submission on other than an inventory basis.

(3) Examination of proposal. Types of reviews made and by whom (audit, engineering, legal, or other).

(c) Tabular summary of contractor's claim and the settlement. The cost elements/items, the amounts claimed, the Government recommended position (including auditor, field, and technical personnel recommendations), and the negotiated settlement amounts. This summary shall include, if appropriate, previously reimbursed and unreimbursed costs applicable to the prime contractor and subcontractor, previous profit/fees paid and unpaid; settlement cost less disposal credit or other credits, and a recapitulation of previous settlements. The summary of the negotiated settlement shall include the amount claimed and allowed for contractor and/or subcontractor changes, disposal, prior payment credits, and contract price.

(d) Settlement narrative summary.

(1) Contractor's cost.

(2) Profit/Fee.

(3) Settlement expenses not included in the audit.

(4) Number and dollar amount of any subcontractor settlements approved by the TCO and concluded by the contractor under delegation of authority.

(5) Total amount of any partial payments.

(6) Total amount of unliquidated progress or advance payments.

(7) Claims of the Government against the contractor included in settlement agreement reservations.

(8) Assignments, including the name and address of each assignee.

(9) Disposal credits.

(10) Status of plant clearance actions and all inventory sold, retained, or otherwise properly disposed of in accordance with applicable plant clearance regulations, including a consolidated closing plant clearance report, if applicable.

(11) Status of Government property accountability.

(12) Disposition of any special tooling, if applicable.

(13) Proposed reservations of rights to the Government or to the contractor.

(e) Recommendation. Amount of the gross settlement recommended and TCO statement that it is fair and reasonable to the Government and the contractor.

(f) TCO Signature and date.

[PN 18-06]

1849.111 Review of proposed settlements.

(1) Settlements shall be reviewed in accordance with center-prescribed procedures.

(2) The TCO may authorize the contract administration office cognizant of a lower-tier subcontractor to grant approval or ratification of proposed subcontractor settlements described in FAR 49.108-3(c) that are first reviewed and referred by the prime contractor to the TCO. This procedure is not applicable to settlements between the contractor and its first tier subcontractors.